

E-Filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS SCHUENEMAN,

Plaintiff,

No. C 05-4505 MHP

v.

1st CREDIT OF AMERICA, LLC; JOHN
DOE, an individual, DOE ABC COMPANY;
and DOES 3 through 20, inclusive;

Defendants.

MEMORANDUM & ORDER
**Re: Motion for Attorneys' Fees and
Costs and Motion to Withdraw as
Defendant's Attorney**

On November 4, 2005 plaintiff, Thomas Schueneman ("Schueneman"), filed a complaint against defendants, 1st Credit of America ("1st Credit"), unnamed defendants John Doe, Doe ABC Company and Does 2–30, alleging violations of the Fair Debt Collections Practices Act ("FDCPA"), 15 U.S.C. section 1692 *et seq.*, and California's Rosenthal Act, Civil Code section 1788 *et seq.* 1st Credit accepted plaintiff's offer of judgment and judgment was entered against defendant on March 15, 2007. Now before the court is plaintiff's motion for attorneys' fees and costs¹ and defense counsel's motion to withdraw as attorney for defendant. Having determined there is no need for a hearing on either of these matters, the court deemed the matter submitted.

1 BACKGROUND

2 Plaintiff Thomas Schueneman filed the complaint in the instant action against defendant 1st
3 Credit on November 4, 2005. The parties engaged in mediation but those efforts to settle the case
4 were unsuccessful. Trial was initially scheduled for February 9, 2007 and was subsequently
5 postponed until March 20, 2007. On February 21, 2007 the parties notified the court that plaintiff
6 had accepted an offer of judgment pursuant to Federal Rule of Civil Procedure 68. Accordingly,
7 judgment was entered in favor of the plaintiff in the amount of \$3500 in addition to “reasonable
8 costs and reasonable attorneys’ fees.” Entry of Judgment, Docket No. 42, March 15, 2007, at 2.

9 Plaintiff duly filed a motion for attorneys’ fees and costs in the amount of \$38,144 pursuant
10 to 15 U.S.C. section 1692k(a)(3). Plaintiff contends that plaintiff’s counsel and staff expended a
11 total of 149.7 hours on this case. According to plaintiff, his attorney Eric F. Fagan expended 64.8
12 hours on this matter as well as 11.3 hours of travel time. Plaintiff states that Fagan’s billable hourly
13 rate is \$325 and all travel time, for Fagan and his associate, is billed at \$100 per hour. Fagan’s
14 associate, Jeremy S. Golden, expended 49.8 hours on this matter as well as five hours of travel time.
15 Golden’s hourly rate is \$275. Finally, two members of Fagan’s staff, paralegal Dorian Hudson and
16 Denise Negrete, spent a total of 18.8 hours on this case. Hudson’s hourly rate is \$110 per hour or
17 \$115 per hour;² Negrete’s rate is \$90.00 per hour. The costs associated with the case were
18 \$1,593.01. See Fagan Dec, Exh. Bill of Costs. Not surprisingly, defendant contests the requested
19 amount as unreasonable.

20 On April 12, 2007 Tomio B. Narita, Jeffrey A. Topor and Wineberg, Simmonds & Narita
21 LLP, filed a motion to withdraw as defendant’s attorney. Counsel asserts that defendant has
22 breached the agreement to pay counsel monthly. Subsequently, the court deemed this matter as well
23 as the motion for attorneys’ fees submitted on the papers.

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1 LEGAL STANDARD

2 Motion for Attorneys' Fees

3 The Fair Debt Collection Practices Act states that "any debt collector who fails to comply
4 with [the statute] with respect to any person is liable to such person." 15 U.S.C. § 1692k(a). "[I]n
5 the case of any successful action to enforce the foregoing liability, the costs of the action, together
6 with the reasonable attorney's fee as determined by the court" will be included in the amount of the
7 debt collector's liability. 15 U.S.C. § 1692k(a)(3). An award of attorneys' fees pursuant to section
8 1692k(a)(3) is mandatory. See Graziano v. Harrison, 950 F.2d 107, 113 (3d Cir. 1991)
9 ("'[A]ttorney's fees should not be construed as a special or discretionary remedy; rather, the
10 [FDCPA] mandates an award of attorney's fees . . ."); Cancio v. Financial Credit Network, No. C 04-
11 03755 TEH, 2005 WL 1629809, at *1 (N.D. Cal. July 6, 2005) (Henderson, J.) ("The FDCPA
12 entitles a successful plaintiff to reasonable attorneys' fees as determined by the court.").

13 In Hensley v. Eckerhart, 461 U.S. 424 (1983), the Supreme Court outlined the proper method
14 for determining reasonable attorneys' fees using the lodestar method. "The most useful starting
15 point for determining the amount of a reasonable fee is the number of hours reasonably expended on
16 the litigation multiplied by a reasonable hourly rate." Id. at 433. There is a strong presumption that
17 the lodestar formula represents a reasonable fee. Pennsylvania v. Delaware Valley Citizens' Council
18 for Clean Air, 478 U.S. 546, 565 (1986). The court may decrease the amount of hours in the
19 calculation where the prevailing party's counsel inadequately document their hours. Hensley, 461
20 U.S. at 433. In addition, the court will deduct any hours not reasonably expended, such as those that
21 are "excessive, redundant, or otherwise unnecessary." Id. at 434.³ The court may also consider other
22 factors to adjust the fee upward or downward, which will be discussed below. Id.

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1 DISCUSSION

2 I. Attorneys' fees

3 Both parties agree that the determination of appropriate attorneys' fees starts with the
4 lodestar formula. However, the parties dispute the reasonable hourly rate and the reasonable hours
5 expended. The court will address each of the parties' contentions in turn.

6

7 A. Reasonable Hourly Rate

8 Defendant contests the proposed hourly rate for both attorneys Fagan and Golden as well as
9 those proposed for the staff members. Plaintiff suggests that the reasonable hourly rates for his
10 attorneys are \$325 per hour for Eric F. Fagan and \$275 per hour for Jeremy Golden. Fagan Dec.,
11 Exh. A at 21. Defendant suggests that the hourly rates presented for Fagan and Golden are
12 unsupported and that Fagan and Golden should only be compensated \$200 per hour and \$100 per
13 hour respectively. “[T]he burden is on the fee applicant to produce satisfactory evidence—in
14 addition to the attorney’s own affidavits—that the requested rates are in line with those prevailing in
15 the community for similar services by lawyers of reasonably comparable skill, experience and
16 reputation.” Blum v. Stenson, 465 U.S. 886, 898 n.11 (1984).

17 1. Reasonable Rate for Fagan

18 Fagan’s declaration outlines his relevant experience and skills. Fagan opened his current
19 practice in consumer law in 2002 after practicing real estate law for fourteen years. Fagan Dec. ¶¶ 2
20 & 4. He has attended out-of-state conferences on consumer law with an emphasis on debt buyers
21 and the FDCPA, including a three-day weekend retreat in 2005 in Wisconsin focused on FDCPA
22 litigation. Id. ¶¶ 4 & 5. Fagan’s relevant experience includes settlements of twenty-one FDCPA
23 actions. Id. ¶6. His firm currently represents plaintiffs in thirty FDCPA/Rosenthal actions and
24 twenty-three debt-buyer suits. Id. ¶¶ 6 & 7. In addition, his firm has successfully defended sixty
25 actions brought by debt buyers. Id. ¶ 7.

26 In addition to a declaration by Fagan, plaintiff has provided declarations from two attorneys
27 practicing in the relevant field of consumer law: Fred W. Schwinn and Ronald Wilcox. Schwinn
28 states that a rate of \$325 per hour is reasonable for Fagan given Fagan’s qualifications, expertise and

1 twenty-five-plus years of litigation experience. Id. ¶ 9. Schwinn bases his opinion on his knowledge
2 of the billing practices of private law firms in the San Francisco Bay area and his own experience in
3 billing clients in consumer litigation. Id. ¶ 7. Wilcox also states that \$325 per hour is a reasonable
4 rate based on his familiarity with Fagan's work and the rates of attorneys in the relevant geographical
5 area. Wilcox Dec. ¶ 12.

6 Defendant contends that the case law and the evidence do not support the rate of \$325 per
7 hour, but rather a rate of \$200 per hour for Fagan. Defendant argues that courts in similar cases have
8 dictated a rate of \$200 per hour. See Camacho v. Bridgeport, No. C 04-00478 CRB, 2007 WL
9 196681 *1 (N.D. Cal. Jan. 4, 2007) (Breyer, J.) (awarding rate of \$200 per hour), amended by 2007
10 WL 781534 (N.D. Cal. Mar. 3, 2007) (Breyer, J.); Johnson v. Credit Intern, Inc., No. C 03-100 SC,
11 2005 WL 2401890 *4 (N.D. Cal. July 28, 2005) (Conti, J.) (awarding rate of \$250 per hour). By
12 contrast, in Defenbaugh v. JBC & Associates, Inc., the court awarded fees of \$400 per hour and \$435
13 per hour to the two lead attorneys in an FDCPA case. No. C 03-0651 JCS, 2004 WL 1874978 *5
14 (N.D. Cal. Aug. 10, 2004) (J. Spero). In Defenbaugh, the plaintiff highlighted "a series of cases
15 decided in the Northern District of California in which this Court awarded hourly rates of up to
16 \$450/hour to attorneys with comparable experience." Id. at *6. See also Cancio v. Fin. Credit
17 Network, Inc., C 04-03755 TEH, 2005 U.S. Dist. LEXIS 13626 *17 (N.D. Cal. July 6, 2005)
18 (awarding rate of \$345 and \$435 per hour).

19 Defendant further contests the declarations of Schwinn and Wilcox, arguing that these
20 attorneys are self-interested parties and their statements should be given little weight. Defendant
21 claims that both attorneys are seeking to bolster their own attorneys' fees awards in similar cases by
22 proposing an inflated figure for Fagan. However, this argument could be made for evidence
23 provided by any attorney practicing in the relevant field, yet the courts have commonly relied on
24 such evidence. Defenbaugh, 2004 WL 1874978 at *7. Defendant also argues that both attorney
25 declarants have a greater degree of experience than Fagan and are routinely awarded rates of only
26 \$300 per hour.⁴ See Schwinn Dec. ¶ 9; Wilcox Dec. ¶ 10. Fagan has represented consumers for only
27 five years compared with the ten year experience of the declarants. However, his extensive fourteen-
28 year litigation experience prior to pursuing consumer law is a contributing factor. Accordingly, the

1 court finds that the reasonable rate per hour for Fagan is \$300, consistent with the rates awarded to
2 his peers.

3 2. Golden

4 Plaintiff contends that Golden, an associate of Fagan's, commands an hourly rate of \$275 or
5 \$50 less than Fagan's hourly rate. See Fagan Dec. ¶ 8; Exh. A. at 21. Golden is a less experienced
6 attorney than Fagan, with roughly four years of litigation experience. Id. Defendant argues that a
7 billing rate of \$275 is not commensurate with Golden's relative lack of experience and suggest that a
8 \$100 differential in the hourly rates of Golden and Fagan is appropriate. The court is satisfied that a
9 \$50 differential in the hourly rate is reasonable based on the relative experience levels of Fagan and
10 Golden. Moreover, \$250 per hour is consistent with the rates courts have found reasonable in similar
11 cases for attorneys with similar experience levels. See Defenbaugh v. JBC & Associates, Inc., No.
12 C-03-0651 JCS, 2004 WL 1874978, *7 (N.D. Cal. Aug. 10, 2004) (Spero, J.) (finding reasonable a
13 rate of \$275/hour for FDCPA attorney with nine years of experience). Having determined that a
14 reasonable hourly rate for Fagan is \$300 per hour, the court determines that \$250 per hour is a
15 reasonable rate for Golden's services.

16 3. Support staff

17 Defendant also contests the hourly rates for the services of Fagan's support staff. Plaintiff
18 has submitted only the records of counsel's billing system to support the hourly rates for the work
19 performed by Hudson and Negrete. See Pl.'s Exh. A at 21. However, at least one court in this
20 district has concluded based on similar information that \$115 per hour is a reasonable rate for a
21 paralegal in this type of action. See Camacho, 2007 WL 1302731, at *1. Therefore, a rate of \$110-
22 115 is not unreasonable for Hudson's service. Because plaintiff has failed to provide any
23 explanation for the difference in Hudson's billable rate—for some activities, her rate is \$110 per
24 hour, for others it is \$115, the court finds that Hudson's rate is the lower of the two.

25 Plaintiff submits that Negrete's hourly rate is \$90. Based on the relative skill levels required
26 by their roles as paralegal and legal secretary, a differential of \$20 between the billable rates of
27 Hudson and Negrete is reasonable. Therefore, the court finds that Negrete's rate is \$90.

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1 B. Reasonably Expended Hours

2 Defendant objects to the number of hours claimed by plaintiff as excessive and unreasonable.
3 First, it contends that plaintiff seeks to recover for time spent in connection with an entirely different
4 action. Defendant also asks the court to adjust the claimed hours where they reflect non-legal
5 activities, the entries are insufficiently detailed, and the time reflects work for claims later
6 abandoned. The court will address each argument in turn.

7 1. Hours expended on unrelated action

8 Defendant has lodged objections to recovery for time spent in preparation for another action,
9 Civitello v. 1st Credit of America, No. C 05-4944 WHA (N.D. Cal.). Defendant has presented a
10 line-by-line dissection of the billing statement presented by Fagan. See Narita Dec. ¶ 32. Plaintiff
11 has presented no response to any of defendant's arguments about tasks performed for the Civitello
12 action, and, accordingly, plaintiff has not met its burden on this issue.

13 The court's examination of Fagan's billing statement and defendant's enumeration of its
14 objections to certain tasks performed in connection with the Civitello action indicates that the hours
15 claimed should be reduced. After conducting a thorough review of the submitted time and
16 defendant's objections, the court has identified entries as tasks claimed by plaintiff in this matter that
17 were in fact performed for the Civitello matter. A total of 4.6 hours billed by Fagan were attributable
18 to the Civitello action.⁵ Similarly, Golden's hours should be reduced by 4.7 hours⁶ and Hudson's by
19 1.1 hour⁷ to reflect work performed on the Civitello matter.

20 Defendant objects to other items on the billing statement because these items represent work
21 substantially similar to that performed in Civitello. See, e.g., Narita Dec. at 16:20–28 (“To a large
22 extent, the Complaint in this action is duplicative of the complaint in a separate case—Christopher
23 Civitello v. 1st Credit of America, Case No. C05-04944 WHA. Counsel for Schueneman has
24 already sought compensation for this work in a fee motion filed in the Civitello matter.”). It also
25 raises objections, or reserves its right to object, to other items based on the fact that counsel for
26 plaintiff has sought compensation for this work in the Civitello action. See, e.g., Narita Dec. at
27 70:16–26. These arguments do not persuade the court that plaintiff's request is unreasonable.
28 Certainly, plaintiff is permitted to seek attorneys' fees for work performed in this case even where

1 that is similar to work performed in a different action. Therefore, the court will reduce the amount of
2 time claimed by plaintiff's counsel by 4.5 hours for tasks performed by Fagan; 4.7 for Golden; and
3 1.1 for Hudson.

4 2. Non-legal activities

5 Defendant also contests plaintiff's claims for time spent on non-legal, clerical tasks.
6 Defendant asks the court to reduce the lodestar by the hours it contends are attributable to non-billable
7 tasks. The court agrees. “[P]urely clerical or secretarial tasks should not be billed at a paralegal [or
8 lawyer's] rate, regardless of who performs them ... [The] dollar value [of such non-legal work] is not
9 enhanced just because a lawyer does it.” Missouri v. Jenkins, 491 U.S. 274, 288 n.10 (1989) (citation
10 omitted). However, defendant has cited no caselaw suggesting that this non-legal work is non-
11 billable. Rather, non-legal tasks should be billed at the rate for a legal assistant. The court has
12 identified 5.7 hours attributable to clerical tasks performed by Hudson that should be billed at the
13 lower rate for a legal assistant.⁸ The court declines to adjust the remaining four entries to which
14 defendant objects because the work performed was appropriate for a paralegal. See, e.g., Narita Dec.
15 at 22, Entry for 1/24/06 (preparation of a summons). Additionally, entries representing 6.6 hours of
16 Fagan's billed time are clerical tasks, which should not be billed at Fagan's hourly rate.⁹
17 Accordingly, 6.6 hours should be deducted from the lodestar for Fagan. The court declines to adjust
18 Fagan's hours for certain tasks appropriately performed by an attorney. See, e.g., Narita Dec. at 57,
19 Entry for 9/28/06 (preparation for subpoena). The court also concludes that Golden's hours should be
20 reduced by 0.5 hours for similar reasons. See Narita Dec. at 71, Entry for 12/12/06 (gather evidence
21 for deposition). Other items identified by defendant were non-clerical tasks, appropriately billed at
22 Golden's rate. See, e.g., Narita Dec. at 67 , Entry for 11/27/06 (drafting subpoena). For similar
23 reasons, the court rejects defendant's arguments for the two entries for Negrete, as the work described
24 was appropriately performed by a legal assistant. Therefore, the court will deduct 5.7 hours from the
25 total billed by Hudson, 6.6 hours by Fagan, and 0.5 by Golden; these 12.8 hours should be billed at
26 the rate for a legal secretary.

1 3. Inadequate description of services

2 In Hensley v. Eckerhart, the Supreme Court observed that “counsel, of course, is not required
 3 to record in great detail how each minute of his time was expended. But at least counsel should
 4 identify the general subject matter of his time expenditures.” 461 U.S. 424, 437 n.12 (1983). In many
 5 instances, the description of the services falls below this standard. For instance, the entry on August
 6 17, 2005 states only that Hudson performed “research” for 0.4 hours; on August 30th of the same
 7 year, the statement indicates that Fagan “reviewed letter from attorney.” See Narita Dec. at 12, 13.
 8 “Where the documentation of hours is inadequate, the district court may reduce the award
 9 accordingly.” Hensley, 461 U.S. at 433; see also Hagan v. MRS Associates, Inc., 2001 WL 531119,
 10 *5 (E.D. La. 2001) (reducing hours by ten percent for inadequate documentation); Louisiana Power &
 11 Light Co. v. Kellstrom, 50 F.3d 319, 326 (5th Cir. 1995) (imposing ten percent reduction for
 12 inadequate documentation due to vagueness); H.J. Inc. v. Flygt Corp., 925 F.2d 257, 260 (8th Cir.
 13 1991) (reducing hours by twenty percent because of inadequate documentation). Because plaintiff
 14 has not provided sufficient detail of time expenditures, the court will reduce the lodestar by 5%.

15 4. Abandoned claims

16 Defendant argues that the award should be reduced to account for the time that counsel spent
 17 on claims and causes of action abandoned before trial. Defendant suggests that awarding attorneys’
 18 fees for time spent on abandoned claims would encourage a plaintiff to allege multiple violations for
 19 the sole purpose of increasing attorneys’ fees. Defendant points to Hensley which stated that “[a]
 20 reduced fee award is appropriate if the relief, however significant, is limited in comparison to the
 21 scope of the litigation as a whole.” 461 U.S. at 440. However, the Hensley court explained that the
 22 fee should only be reduced when the claims that are abandoned are wholly distinct from the
 23 successful claims. Id. (“Where a lawsuit consists of related claims, a plaintiff who has won
 24 substantial relief should not have his attorney’s fee reduced simply because the district court did not
 25 adopt each contention raised.”). Claims are related “if they involve a common core of facts or are
 26 based on related legal theories.” Schwarz v. Secretary of Health & Human Services, 73 F.3d 895, 902
 (9th Cir. 1995) (quoting Hensley, 461 U.S. at 434–35) (internal quotation marks omitted).¹⁰

27 The Ninth Circuit has outlined a two-part test for determining whether a fee should be reduced
 28 on the basis of abandoned claims. First, the court determines whether the plaintiff’s successful claims

are related to plaintiff's unsuccessful claims. Id. at 901. If the claims are unrelated, then the court
1 will not include the time spent on the unsuccessful claims in the final award. Id. If the two categories
2 of claims are related, then the court determines the "significance of the overall relief obtained by the
3 plaintiff in relation to the hours reasonably expended on the litigation." Id. at 901–02 (internal
4 citation omitted). Full compensation is proper when the plaintiff's counsel has secured excellent
5 results; full compensation is excessive when only partial or limited success was achieved. Id. at 902.
6 "Such decisions are within the district court's discretion." Id.

7 Defendant does not argue that the abandoned claims are unrelated; rather, it focuses on the
8 second prong of limited success. Defendant relies on the fact that of twenty claims, plaintiff
9 proceeded with only the eight FDCPA claims before accepting defendant's offer of judgment. See
10 Joint Pre-trial Statement, Docket #32. However, the Ninth Circuit has directed courts to compare the
11 overall relief obtained by the plaintiff relative to the relief originally requested to reduce fees, instead
12 of applying a ratio of winning claims to losing claims. See Toussaint v. McCarthy, 826 F.2d 901, 905
13 (9th Cir. 1987). According to plaintiff, his initial offer of settlement was \$7,500 and the final
14 settlement was \$3,500. See Pl.'s Mot. at 6. Thus, the court concludes that a reduction of the lodestar
15 amount of 40%, as defendant suggests, is proper to reflect the abandoned claims.

16 Finally, defendant raises two additional arguments in opposition to plaintiff's requested fees.
17 First, defendant argues that the large amount of fees are attributable to plaintiff's unwillingness to
18 settle at an earlier stage in the litigation, thus inflating the amount of time counsel was required to
19 spend. Second, defendant protests that plaintiff has not provided support for the reasonableness of the
20 hours claimed. The court is persuaded by neither argument. Defendant has shown nothing more than
21 that the protracted settlement negotiations resulted from tough bargaining on the part of both parties.
22 Despite defendant's protestations to the contrary, the Wilcox declaration provides adequate support for
23 the reasonableness of hours claimed. See Wilcox Dec. ¶ 14 ("I have [] reviewed . . . the amount for
24 fees and costs Mr. Fagan seeks. I believe the amount in question is fair and reasonable.")

25 In sum, the court determines that reasonable attorneys' fees are \$17,213.90 based on the
26 following lodestar calculation and adjustments. The lodestar amount of \$31,298.00 is based upon the
27 following hourly rates and total hours spent: Fagan 53.6 hours¹¹ at \$300 per hour and 11.3 hours at
28 \$100 per hour¹²; Golden 44.6¹³ hours at \$250 per hour and 5.0 hours at \$100 per hour; Hudson 10.3

hours¹⁴ at \$110 per hour; Negrete 1.7 hours at \$90 per hour; non-legal activities of 12.8 hours at \$90 per hour. The reductions of 5% for inadequate descriptions of services and 40% for abandoned claims result in attorneys' fees of \$17,213.90.

3

4 II. Motion to withdraw as defense counsel

5 After plaintiff filed the motion for attorneys' fees, defendant's counsel filed a motion to
6 withdraw as defendant's attorney because defendant has breached an agreement to pay counsel's fees.
7 According to Civil Local Rule 11-5, "[c]ounsel shall not withdraw from an action until relieved by
8 order of the Court after reasonable advance written notice has been given to the client and all other
9 parties who have appeared in the case." Civil L.R. 11-5(a). Further, "[w]hen withdrawal by an
10 attorney is not accompanied by simultaneous appearance of substitute counsel . . . leave to withdraw
11 may be subject to the condition that papers may continue to be served on counsel for forwarding
12 purposes, unless and until the client appears by other counsel . . ." Civil L.R. 11-5(b).

13 In this district, the conduct of counsel, including withdrawal of counsel, is governed by the
14 standards of professional conduct required of members of the State Bar of California. See Elan
15 Transdermal Limited v. Cygnus Therapeutic Systems, 809 F.Supp. 1383, 1387 (N.D. Cal. 1992)
16 (Orrick, J.). Pursuant to the California Rule of Professional Conduct 3-700(C)(1)(f), an attorney may
17 request permission to withdraw if the client breaches an agreement or obligation to the attorney with
18 respect to payment of expenses or fees. Cal. Rules of Professional Conduct Rule 3-700(C)(1)(f).
19 Moreover, very little if anything remains at this stage in the litigation. Withdrawal of defense counsel,
20 therefore, will not prejudice either party. Accordingly, the request of defense counsel to withdraw is
21 GRANTED. Mr. Narita shall serve a copy of this order on his client. Defendant is admonished that,
22 being a corporation, it may only appear in this Court or before the court of appeals through counsel.
23 Any attempt to appeal any part of this case will have to be through counsel and not pro se.

24 Defendant also requested a stay of the hearing on the motion for attorneys' fees. Because the
25 court deemed the motion for attorneys' fees submitted on the papers, defendant's request for a stay is
26 unnecessary.

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CONCLUSION

1
2 Plaintiff's motion for attorneys' fees is GRANTED in part and DENIED in part. The court
3 finds that reasonable attorneys' fees are \$17,213.90. The motion to withdraw as defense counsel is
4 GRANTED.

5 IT IS SO ORDERED.
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7 Dated: *July 6, 2007*
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10 MARILYN HALL PATEL
11 District Judge
12 United States District Court
13 Northern District of California
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ENDNOTES

1. Plaintiff's motion provides no information on costs, accordingly the court will only address the request for attorneys' fees.
 2. Plaintiff provides no explanation for the two different rates for Hudson's work.
 3. "Hours that are not properly billed to one's *client* also are not properly billed to one's *adversary*." Hensley, 461 U.S. at 434 (quoting Copeland v. Marshall, 641 F.2d 880, 891 (D.C. Cir. 1980)).
 4. Schwinn has ten years of legal experience, practicing from his own office in San Jose since 2003, and at another firm in Kansas for six years previously. Schwinn Dec. ¶ 3. Schwinn represents consumer debtors. Id. Wilcox has twelve years of legal experience, licensed in California since 1995. Wilcox Dec. ¶ 4. Wilcox has represented consumers in individual and class actions, representing three hundred clients in FDCPA matters. Id. ¶ 5.
 5. The 4.6 hour total is based on entries for the following dates. The dates and corresponding hours billed are listed below.

<u>Date</u>	<u>Hr.</u>	<u>Date</u>	<u>Hr.</u>
1/11/2006	0.1	7/26/2006	0.2
1/13/2006	0.2	7/26/2006	0.1
3/27/2006	0.2	8/28/2006	0.4
5/24/2006	0.1	9/14/2006	0.3
5/30/2006	0.1	9/27/2006	0.9
6/1/2006	0.3	9/28/2006	0.3
6/7/2006	0.5	11/27/2006	0.4
6/22/2006	0.1	12/4/2006	0.4

See Pl.'s Exh. A at 3-18.

6. The 4.7 hour total is based on entries for the following dates. The dates and corresponding hours billed are listed below.

<u>Date</u>	<u>Hr.</u>	<u>Date</u>	<u>Hr.</u>
5/1/2006	0.5	11/28/2006	1.0
6/2/2006	0.2	11/28/2006	0.6
7/14/2006	0.4	11/29/2006	2.0

See Pl.'s Exh. A at 7-18.

7. The 1.1 hour total is based on entries for the following dates. The dates and corresponding hours billed are listed below.

	<u>Date</u>	<u>Hr.</u>		<u>Date</u>	<u>Hr.</u>
1	8/4/2006	0.1		10/4/2006	0.4
2	8/29/2006	0.3		11/13/2006	0.1
3	8/31/2006	0.2			

4 See Pl.'s Exh. A at 11–16.

5 8. The 5.7 hour total is based on entries for the following dates. The dates and corresponding hours
 6 billed are listed below.

	<u>Date</u>	<u>Hr.</u>		<u>Date</u>	<u>Hr.</u>
7	8/31/2005	0.2		9/29/2006	0.2
8	9/29/2005	0.5		10/2/2006	0.2
9	1/10/2006	0.4		10/16/2006	0.2
10	1/17/2006	0.1		11/1/2006	0.3
11	3/16/2006	0.4		11/8/2006	0.3
12	3/24/2006	0.7		1/25/2007	0.2
13	8/8/2006	0.4		1/26/2007	0.3
14	8/21/2006	0.1		2/5/2007	0.5
15	8/28/2006	0.1		2/12/2007	0.2
16	9/5/2006	0.1		2/21/2007	0.2
17	9/13/2006	0.1			

18 See Pl.'s Exh. A at 1–21.

19 9. The 6.6 hour total is based on entries for the following dates. The dates and corresponding hours
 20 billed are listed below.

	<u>Date</u>	<u>Hr.</u>		<u>Date</u>	<u>Hr.</u>
17	9/30/2005	3.0		5/12/2006	0.2
18	3/22/2006	0.2		7/22/2006	0.1
19	3/22/2006	0.2		8/21/2006	0.3
20	5/12/2006	0.1		9/27/2006	0.9
21	5/12/2006	0.1		12/4/2006	0.4
22	5/12/2006	0.1		12/28/2006	1.0

23 See Pl.'s Exh. A at 2–19.

24 10. Defendant asserts that even if claims involve common facts or related legal theories, the award
 25 should still be reduced. However, in the case cited by defendant, the court reduced the fee because
 26 the abandoned claims in that case involved different legal theories and dissimilar facts. See
 27 Vandzura v. C & S Adjusters, Inc., 1997 WL 56927, *3 (E.D. Pa. 1997).

28 11. This total reflects the 64.8 hours claimed less adjustments of 4.6 hours (work on unrelated
 29 matter) and 6.6 hours (non-legal activities).

30 12. The lower billable rate for these tasks reflects travel time. There is no dispute about this rate or
 31 the time claimed. Accordingly, no adjustments are necessary for either the rate or amount of time.
 32 The same logic applies to Golden's travel time and rate.

1 13. This total reflects the 49.8 hours claimed less adjustments of 4.7 hours (work on unrelated
2 matter) and 0.5 hours (non-legal activities).

3 14. Hudson's total hours reflect the 17.1 total hours claimed less adjustments of 1.1 (work on
4 unrelated matter) and 5.7 hours (non-legal activities).